IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal No. 20-135
	)	Judge Donetta Ambrose
MATTHEW MICHANOWICZ	)	

GOVERNMENT'S RESPONSE TO DEFENDANT'S MOTION FOR MEDICAL FURLOUGH

The United States of America, through undersigned counsel, respectfully responds to the Defendant's Petition for Medical Furlough (Doc. No. 49).

The Defendant was charged initially by Complaint on June 5, 2020 and then by Indictment on June 23, 2020 with possession of three unregistered destructive devices in violation of Title 26, United States Code, Section 5861(d).   A detention hearing was held before Magistrate Judge Maureen P. Kelly on July 14, 2020 and defendant was ordered detained.   He is currently housed at the Allegheny County Jail ("ACJ").

On June 21, 2021, the Defendant, through counsel, filed Petition for Medical Furlough, alleging that his dental crowns are disintegrating and are in need of replacement. Defendant asserts that he was told by ACJ medical staff that he would have to have his teeth removed instead of the having the crowns replaced. (Petition at ¶ ¶ 3-4). Defendant requests that this Court order either a 16-hour furlough or alternatively that the United States Marshal's Service ("USMS") transport the defendant to be evaluated and treated in an unspecified dental office. Defendant does not attach any medical or dental records to his Petition. Nor does he provide the name of the dentist whom he proposes will evaluate and treat him outside of prison or any medical or dental report indicating that such treatment is warranted.

It is the Government's position that the Court cannot grant relief on the record before it. The Defendant, who bears the burden on his Petition, has not submitted any medical or dental records or other individualized evidence substantiating his claims that he is not receiving adequate dental care. Title 18, United States Code, Section 3142(i), provides that, "[t]he judicial officer may, by subsequent order, permit the temporary release of the person, in the custody of a United States marshal or another appropriate person, to the extent that the judicial officer determines such release to be necessary for preparation of the person's defense or for another compelling reason." It is the Defendant's burden to show that Section 3142(i) permits his temporary release. *United States v. Davis*, No. CR 2:20-121-12, 2020 WL 4496581, at *2 (W.D. Pa. Aug. 4, 2020) ; *United States v. Wilburn*, No. 2:18-CR-115, 2020 WL 1899146, at *2 (W.D. Pa. Apr. 17, 2020). To meet this burden, the defendant should present an individualized argument why temporary release is appropriate; generalized or speculative arguments are insufficient. *Wilburn,* 2020 WL 1899146, at *2. The Defendant has failed to meet this burden and the motion should be denied.

In order to properly respond to the Petition, the undersigned reached out to the USMS, who communicate with ACJ regarding medical care of federal inmates, to inquire about the Defendant's allegations.   The USMS forwarded the request to ACJ medical staff and requested a response. The ACJ Medical Unit promptly responded and advised that, contrary to his Petition, defendant was seen by a certified dentist, Dr. James Wilson, D.D.S. on February 23, 2021 and that there is only one tooth at issue (tooth 19 located in the lower back of defendant's mouth). ACJ provided Dr. Wilson's medical report indicating that defendant had a cracked crown on this tooth and tried to repair it himself. He was unsuccessful and when the dentist examined the tooth, the tooth underneath was fractured and required removal so as to avoid further complications. Defendant

refused all treatment. *See* defendant's dental record attached hereto. Accordingly, defendant's

Petition is unsupported and should be denied.

Respectfully submitted,

STEPHEN R. KAUFMAN
Acting United States Attorney

s/Jessica Lieber Smolar
JESSICA LIEBER SMOLAR
Assistant U.S. Attorney
U.S. Attorney's Office
700 Grant Street
Suite 4000
Pittsburgh, PA 15219
PA ID No. 65406